

**19 MAY 2000**



**Law**

**OSAN AIR BASE FAMILY MEMBER  
MISCONDUCT BOARD (PA)**

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OPR: 51 FW/JA (Capt Pratzner)  
Supersedes 51 FWI 31-203, 20 December 1996

Certified by: 51 FW/JA (Major Verchio)  
Pages: 4  
Distribution: F

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This instruction establishes a program for dealing with cases of family member misconduct on Osan Air Base. It is applicable to all active duty service members, DOD civilians, and contractor personnel, as well as their family members, who are stationed at Osan Air Base. This instruction can also be applied to retirees and their family members who utilize base facilities. This instruction is affected by the Privacy Act of 1974. This instruction implements AFD 51-9, *Civil Law for Individuals* and AFD 31-2, *Law Enforcement*. Records generated by this regulation are authorized by 10 U.S.C. §8012. They can be used to document DD Form 1569, **Incident/Complaint Report**, as prescribed by AFI 38-301, *Productivity Enhancing Capital Investment Programs*. No independent system of records will be maintained in the Family Member Misconduct Program. Authorities: Public Law 94-415, *Juvenile Justice and the Juvenile Justice and Delinquency Prevention Act of 1974 (18 U.S.C. §§5031-5042)*; USFKR 600-52, *Family Member Misconduct*; AFD 51-9, *Civil Law for Individuals*.

**1. Policy.** Acts of misconduct committed by DoD civilians, contractor personnel, active duty and their family members on Osan Air Base threaten the security and safety of property and persons on the base. Acts of serious misconduct, or those, which demonstrate a pattern of misconduct, will be brought before the Family Member Misconduct Board (FMMB). Actions of the FMMB will be designed to ensure good order and discipline on Osan Air Base, and, when possible, rehabilitate the offender.

**2. Terms:**

- 2.1. Family Member. Any family member, regardless of age, of individuals entitled to installation access by virtue of their affiliation with U.S. forces.
- 2.2. Misconduct. Any Act which is criminal, destructive, abusive, or which in any other way disrupts the good order of the installation.
- 2.3. FMMB. A board established at Osan Air Base to evaluate cases of family member misconduct and to make appropriate recommendations to the 51 FW/CC.

### **3. Responsibilities:**

3.1. Military members, DOD employees, and contractor personnel are primarily responsible for their conduct, the conduct of their family members, and for ensuring compliance with all applicable standards of behavior. Failure to do so can result in adverse administrative action against the offender or the sponsor.

3.2. The Commander, 51st Fighter Wing is ultimately responsible for ensuring good order and discipline on Osan Air Base, including regulating conduct of all persons thereon. 51 FW/CC may delegate authority to handle family member misconduct to the 51st Support Group Commander, 51st Support Group Deputy Commander or other designee.

### **4. The FMMB:**

4.1. Composition. The board is composed of the following persons or their designated representative:

4.1.1. Voting Members:

4.1.2. The Board Chairman shall be designated by 51 FW/CC, and may be any one of the following: Commander, 51st Support Group (51 SPTG/CC), Deputy Commander, 51st Support Group (51 SPTG/CD), or other designee.

4.1.3. Staff Judge Advocate, Legal Advisor.

4.1.4. Security Forces Commander or Office of Special Investigations Detachment Commander, as appropriate.

4.1.5. Command Chief Master Sergeant, in cases involving enlisted personnel.

4.1.6. Mental Health Advisor.

4.2. Nonvoting Members:

4.2.1. Sponsor's Squadron Commander.

4.2.2. School Principal, in cases involving juveniles.

4.2.3. The Chairman may select additional representatives as appropriate.

4.3. Purpose. To provide a method and framework for disposition of family member misconduct cases arising on Osan Air Base and for the rehabilitation of family members. The Board will:

4.3.1. Meet at the direction of the 51 FW/CC to review incidents or allegations of family member misconduct.

4.3.2. Recommend corrective actions.

### **5. Procedures:**

5.1. Cases of serious misconduct on Osan Air Base are normally investigated by the Security Forces Office of Investigations (SFOI) or the Office of Special Investigations (OSI).

5.2. All reports of investigation disclosing misconduct committed by family members on Osan Air Base will be forwarded to the Office of the Staff Judge Advocate (SJA) and the 51 FW/CC. The SJA will make a recommendation on the appropriateness of referring the case to the FMMB.

5.3. Incidents of misconduct which do not result in investigation by SFOI or OSI may also be referred to the SJA by interested staff agency chiefs or unit commanders.

5.4. The 51 FW/CC will decide which cases will be referred to the FMMB. The 51 FW/CC may, without convening the FMMB, directly take corrective action. In no way is the 51 FW/CC's scope of authority limited by a decision not to convene a board. Further, the 51 FW/CC is free to take any corrective action, including those set forth in paragraph 6. below, which are within his authority. Finally, the 51 FW/CC may refer cases to the member's immediate commander for appropriate action.

5.5. No member of the FMMB will sit in judgment on a case involving their own dependent.

5.6. The FMMB will be convened in writing by the Board Chairman.

5.7. The Board Chairman will notify the family member's sponsor of the time of the hearing. Attendance is mandatory for active duty sponsors. DoD civilian, contractor personnel, and family members should be strongly encouraged to attend. The FMMB, which can conduct in absentia hearings, may consider the willful refusal of any non-active duty member to appear as a matter in aggravation in deciding upon its recommendation. Failure of the military sponsor to attend may constitute a violation of the Uniform Code of Military Justice (UCMJ).

5.8. Requests for delay of the board hearing must be timely. Such requests are to be delivered to the Board Chairman. Delays will only be granted in extraordinary cases, or where the military member is TDY or is otherwise physically unavailable. The Board Chairman is the decision authority on all delays.

5.9. As a non-adversarial proceeding, there is no entitlement to counsel at a FMMB hearing.

5.10. The government's evidence will be collected and assembled by the SF or OSI representative, who will provide other board members with an oral summary of the allegations.

5.11. The 51 SPTG Executive Officer will serve as the recorder.

5.12. Upon convening the hearing, the Board Chairman shall ensure a thorough development of the facts. Formal rules of evidence will not apply. The Legal Advisor will determine what evidence is relevant, and the FMMB will consider all relevant evidence that is available for review.

5.13. The Board Chairman may permit the family member or sponsor to call witnesses or to submit written statements.

5.14. The Board Chairman will devise informal procedures to ensure that all members of the Board are heard in the deliberations and that consensus is reflected in its recommendation.

5.15. The FMMB will, after the hearing, make a recommendation of appropriate action to the 51 FW/CC.

5.16. The 51 FW/CC may accept the recommendation, take any other appropriate action, or return the case to the FMMB for further action. Dissenting recommendations are appropriate and may be forwarded to 51 FW/CC.

**6. Corrective Action.** The FMMB may recommend any one or more of the following corrective actions:

6.1. An oral or written warning or reprimand of the family member, the sponsor, or both.

6.2. Referral of the family member or referral of the family member and parents to base agencies such as Chaplain, Mental Health Services, Family Advocacy, etc.

6.3. Withdrawal of specified privileges, such as BX, Recreation Center, Theater, etc., or a restriction on entering certain areas of the base.

6.4. Curfew.

6.5. Restitution for damages or injury caused by the family member, including physical labor to repair damage.

6.6. Community service.

6.7. Barment from the base, except for medical, dental care, and school.

**7. Decision.** If 51 FW/CC refers an incident of misconduct to the FMMB, 51 FW/CC will make a final decision after considering the recommendation of the FMMB. The 51 FW/CC's decision is final and not subject to appeal. Notice of the 51 FW/CC's decision will be served on the sponsor, who will acknowledge receipt. Command action will be recorded on the DD Form 1569 and forwarded to investigations.

**8. Action.** Copies of action will be forwarded to agencies involved. In the event public service, restitution, or referral to other agencies is recommended by the FMMB, the sponsor and family member will be required to consent. If consent is refused, the 51 FW/CC will reconsider the matter, taking the refusal into account. Agencies to which the family members are referred are responsible for reporting their progress to the Board Chairman. At that time, the Board Chairman may make a recommendation to the 51 FW/CC for additional action without convening the FMMB.

ROBERT R. DIERKER, Brigadier General, USAF  
Commander